

Appln. No. 10/691,333
Reply dated July 25, 2006
In response to Office Action dated March 27, 2006

REMARKS

Claims 1-5, and 7-33 are pending in this application. Claims 23-27 and 32 are withdrawn. Claim 6 is canceled.

Applicant has amended claims 1, 9, 15 and 16 to cancel non-elected subject matter.

Applicant has amended claims 4, 7 and 14, to improve their form.

Applicant has added to new claim 33 to recite preferred compounds. Support for new claim 33 is provided in Tables 1, 2 and 3 set forth on pages 31-55 of the specification.

None of the amendments introduces new matter.

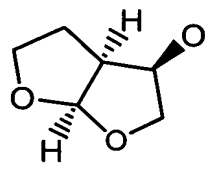
THE RESTRICTION REQUIREMENT

The Examiner states that restriction of the pending claims into one of the following eight groups is required under 35 U.S.C. § 121.¹

Group I: Claims 1-5, 7, 22 and 28-31 (in part) drawn to compounds and compositions wherein R' is R¹-C₁-C₆ alkyl;

¹ Applicant respectfully submits that the Examiner did not identify claims 8-21 in the restriction requirement. Applicant believes that claims 8-21 (in part) should be included in restriction groups I, II and III.

Group II: Claims 1-5, 7, 22 and 28-31 (in part)

drawn to compounds and compositions wherein R' is  ;

Group III: Claims 1-5, 7, 22 and 28-31 (in part)

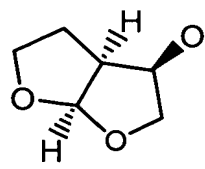
drawn to compounds and compositions wherein R' is  ;

Group IV: Claims 1-5, 7, 22 and 28-31 (in part)

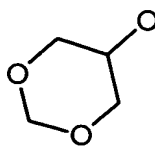
drawn to compounds and compositions wherein R' is  ;

Group V: Claims 23-27 and 32 (in part), drawn to
methods wherein R' is R¹-C₁-C₆ alkyl;

Group VI: Claims 23-27 and 32 (in part), drawn to

methods wherein R' is  ;

Group VII: Claims 23-27 and 32 (in part), drawn to

methods wherein R' is  ; and

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Group VIII: Claims 23-27 and 32 (in part), drawn to

methods wherein R' is  .

The Examiner states that the above groups are independent or distinct from one another. Applicants traverse.

The MPEP states that there are two criteria for a proper requirement of restriction between patentably distinct inventions. The inventions must be independent or distinct as claimed and there must be a serious burden on the Examiner if restriction is not required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP § 803. Applicants respectfully request that the Examiner reconsider the restriction requirement in view of these criteria of this MPEP procedural rule.

A search for the compounds of Groups I-IV and the methods of Groups V-VIII could be carried out simultaneously without a serious search burden. A search for a compound of Group I, II, III or IV inventions would reveal any art for methods of using those compounds (i.e., the methods of Groups

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V, VI, VII and VIII, respectively). Thus, there would be no serious search burden on the Examiner if restriction is not required.

Applicants therefore respectfully request that the Examiner consider the compound Group together with its corresponding method Group. If the Examiner does not agree with this proposal, pursuant to 37 C.F.R. § 1.143, applicants provisionally elect with traverse the claims of Group II for initial substantive examination. Claims 1-5, 7-22, 28-31 and 33 read on elected Group II.

Moreover, upon allowance of the Group II compounds, applicants will request rejoinder of the Group VI method claims commensurate in scope with the allowed product claims. See MPEP 821.04.

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CONCLUSION

Applicants request consideration of the application
and early allowance of the pending claims.

Respectfully submitted,



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